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Easter egg hunts fuel homeowner's adverse possession claim



'The Old Tree Area' (TRIAL EXHIBIT IMAGE)

Easter egg hunts fuel homeowner's adverse possession claim

Pat Murphy (https://masslawyersweekly.com/profile/pat-murphy/) // December 20, 2025

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round a specific tree was enough to convince a Land Court judge that she had established her claim of adverse possession... You can read the content in details following link
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In brief

- **Land Court** (https://masslawyersweekly.com/tag/land-court/?taxo-tag-body) judge ruled homeowner proved **adverse possession** (https://masslawyersweekly.com/tag/adverse-possession/?taxo-tag-body) of a narrow strip of land
- Decades of landscaping and family Easter egg hunts supported the claim
- Most alleged uses of the disputed area were deemed sporadic or insufficient

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Polls

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- ☐ We should want to be a pioneer nationally, given the potential to make the courts more efficient and effective.
- ☐ A slow and steady approach is best.
- ☐ Given the risks, let others lead. We'll learn from their mistakes, even if we're later to adopt.

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- Property owner retained rights to the remainder of the land, including septic area

A Scituate homeowner's history of family Easter egg hunts round a specific tree was enough to convince a Land Court judge that she had established her claim of adverse possession over at least one treasured slice of a neighbor's property.

Judge Gordon H. Piper (<https://masslawyersweekly.com/tag/judge-gordon-h-piper/?taxo-tag-body>)'s recent decision in *EMRG LLC v. Monteiro-Maraj* (<https://masslawyersweekly.com/2025/12/10/real-property-adverse-possession-easter-egg-hunts/>) addresses a dispute between the owners of adjacent residential properties on Ann Vinal Road.

Defendant Alcinda Maria Monteiro-Maraj owns one of the parcels. Her grandfather purchased the property in the 1960s, and it has been in the family ever since. After she immigrated to the U.S. in 1975, Maraj lived on the property with her mother, grandfather, and other members of her extended family, ultimately obtaining title to the property in 2020.

To the east of Maraj's land is a parcel owned by EMRG LLC. The lot has a home on it that has been the residence of two EMRG principals, currently Michael Comerford and previously Robert Day.

At issue in the case: a triangular area on Ann Vinal Road between the driveway entrance to the EMRG lot and the boundary line with the Maraj property. Although the area is on EMRG's property, for decades the patch has been the site of various activities by Maraj and her family. Her grandfather planted trees in the so-called "disputed area," and over the years Maraj used her skills as a professional landscaper to tend to the land, which led her to consider the area her own.

Within the disputed area is a mulched area around a deciduous tree, which the parties refer to as the "Old Tree Area."

Maraj raised objections when, in 2021, EMRG hired an engineering company to install a septic system in the disputed area.

In April 2022, EMRG filed suit in Land Court asserting a claim that would require Maraj to try title to the disputed area as well as a claim for trespass. Maraj responded with a claim for adverse possession.

Piper observed in his later findings of fact and conclusions of law that, to succeed on her claim, under Massachusetts law Maraj bore the burden of proving "adverse, actual, exclusive, continuous, open, and notorious use of the Disputed Area for no less than twenty years."

In the course of a bench trial before Piper, Maraj introduced a mountain of evidence to show that, for decades, she and her family, guests and friends had participated in numerous activities on the disputed area, from mowing the grass and landscaping to recreational activities that included riding motorcycles and setting up of a dunk tank, an above-ground swimming pool, inflatable play devices, and party tents.

But Piper found that most of the activities cited by Maraj either didn't occur within the area in question or were "sporadic, and without permanence or impact."

However, there was one exception that involved a mulched area under and around an old tree.

"The Old Tree Area was more than a mere planting site, as with the Grandfather Trees," Piper wrote in finding Maraj had established the "actual possession" element of her adverse possession claim. "It was a cultivated, landscaped piece of land that was utilized by Ms. Maraj and her family both for its aesthetic features and seasonally for Easter egg hunts, over the course of many years. I find that the long-term presence of the Old Tree Area, and the Easter activities that happened around it, satisfy the actual possession element of adverse possession, but that level of proof only reached what the law requires within the narrow ambit of the Old Tree Area."

Piper also found Maraj had established the element of exclusive use for that one portion of the disputed area.

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“Ms. Maraj, or her family, exclusively used the Old Tree Area as their own, for more than twenty years,” Piper wrote. “The only people permitted to use that landscaped area were Ms. Maraj’s immediate family, or people whom she invited to the House for Easter egg hunts. There was no evidence that previous EMRG Property owner Robert Day, or current EMRG Property owner Michael Comerford, ever tried to use that specific area, to have the landscaping in that area removed, or to prevent Ms. Maraj’s guests from playing in that area.”

Consistent with his findings, Piper entered a final judgment that recognized EMRG’s rights to the majority of the disputed area with the exception of the narrow strip around the Old Tree, which abuts Maraj’s property.

“The defendant has proven successfully that she has acquired title by adverse possession to this area under and around the Old Tree,” Piper wrote. “The remainder of the Disputed Area is owned as of record by the plaintiff, EMRG LLC, free of any interest of the defendant.”

Maraj’s lawyer, Denise A. Chicoine of The Wagner Law Group in Boston, calls Piper’s ruling “significant” in advancing her client’s goals, but also disappointing.



“The Land Court often engages in compromise decisions, particularly when it comes to large areas of land,” Chicoine says. “So it’s not a surprise that there was this distinction made about the types of uses and where they were. I can’t say my client was thrilled about it.”

That said, Chicoine acknowledges that the decision gives her client the portion of the disputed area to which she is most emotionally tied. To achieve that, Chicoine cites the photographic evidence she was able to present at trial showing Easter egg hunts over the years at the site of the Old Tree.

“We had a number of witnesses who knew the people in the photos and who had been part of the Easter egg hunts,” she says. “That’s a good example of an ‘open and obvious’ use.”

Marc D. Kornitsky of Peabody’s Barrett Kornitsky represents plaintiff EMRG. Kornitsky says he considers Piper’s split decision a “win” for his client, with Maraj in the end getting only a 10-by-3 sliver of EMRG’s property.



“The area that Ms. Maraj prevailed on we were willing to concede,” Kornitsky says. “She made a claim for about 3,700 square feet and she prevailed on about 300 square feet.”

Had Maraj prevailed, Kornitsky says his client would have lost more than half the frontage of his property along Ann Vinal Road, as well as the area where he plans to install his septic system.

Having litigated countless adverse possession claims over the years, Kornitsky says he’s learned to take full advantage of available technologies that can help document the use of a property over time.

“They had half-a-dozen or so witnesses that they put on who testified about the location of different activity and use,” Kornitsky says. “We were able to impeach all those witnesses with either Google Earth photos or [images] from a company that maintains aerial photography [surveys]. [For example, the defendant] was claiming she had an above-ground swimming pool located in the disputed area. But the Google Earth photography showed the outline on the grass of where it actually was located.”

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